

Introduced by Senator Rainey

January 12, 1999

An act to amend Section 1903 of the Education Code, to amend Sections 17, 19.2, 2900.5, 4019, 8051, 8052, 8061, and 8080 of, to add Sections 19.3, 4000.2, and 8100 to, and to add Chapter 8.6 (commencing with Section 6140) to Title 7 of Part 3 of the Penal Code, relating to punishment.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as introduced, Rainey. Prison Inmate Population Master Plan.

(1) Under existing law, no person sentenced to confinement in a local correctional facility may be committed to that facility for longer than one year.

This bill would authorize a person who is convicted and sentenced for a nonviolent felony to be placed in a local correctional facility for not more than 35 months, for purposes of treatment, incarceration, and supervision, if the county in which the person is convicted has an approved community-based punishment plan and has executed a contract with the Board of Corrections to place that type of offender. The bill would specify the terms of those contracts. The bill would authorize the board of supervisors of any county to designate a chief correctional administrator and a correctional administrator, as defined by the bill, to administer community-based punishment programs. Persons who are placed pursuant to a community-based punishment plan would not be given a term of parole.

This bill would declare the intent of the Legislature to appropriate money in the annual Budget Act for the costs of the contracts specified above.

(2) Existing law establishes a correctional medical facility under the jurisdiction of the Department of Corrections to treat mentally disordered, developmentally disabled, or controlled substance addicted prisoners. Existing law also requires the department to establish the standards for pilot projects to contract with private sector health care facilities for the provision of medical, developmental, and mental health services.

This bill would require the department to establish a Medical Detention Program that uses licensed health care facilities for the provision of medical, developmental, and mental health services necessary for the treatment of severely ill, incapacitated, and disabled inmates. The bill also would require the department to establish a Medical Detention Evaluation Panel to make recommendations to the Director of Corrections on inmate eligibility for the program.

(3) Existing law defines “intermediate sanctions” as those punishment options that may be provided by local correctional agencies as alternatives to incarceration in a jail facility.

This bill would change the term to “intermediate punishments” and would add incarceration in road camps and work camps to those types of punishments.

Existing law requires community-based punishment plans to be submitted for annual approval or modification by a county board of supervisors.

This bill instead would require that they be submitted periodically, as determined by the board of supervisors.

(4) This bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited
2 as the Prison Inmate Population Master Plan.

1 SEC. 2. The Legislature finds and declares all of the
2 following:

3 (a) The state's prison inmate population is projected to
4 experience an unparalleled increase with the
5 implementation of the "Three Strikes" initiative
6 (Proposition 184) and the continuation of existing
7 sentencing trends.

8 (b) The practice of the imprisonment of new
9 commitments and parole violators in the state prison who
10 serve not more than 35 months offers little opportunity to
11 implement strategies to manage offender behavior and to
12 sustain long-term behavior change that would promote
13 public safety.

14 (c) A decline in local fiscal resources is debilitating
15 local correctional systems that are responsible for county
16 jails and probation, thereby threatening efforts by local
17 corrections to maintain public safety.

18 (d) Alternatives to imprisonment and probation
19 supervision, such as community-based punishment
20 options, are a cost-effective manner in which to maintain
21 public safety and at the same time manage and modify
22 offender behavior. The fiscal responsibility for these
23 options must be shared between the state and each
24 county.

25 (e) State and local corrections should be viewed as an
26 interconnected system that provides an array of
27 appropriate punishment alternatives.

28 SEC. 3. Section 1903 of the Education Code is
29 amended to read:

30 1903. (a) For purposes of attendance, "adult" means
31 any prisoner confined in any county jail, county honor
32 farm, county industrial farm, county or joint county road
33 camp, or community-based ~~correction~~ *punishment*
34 program, and who has enrolled in classes or schools
35 authorized by Section 1900.

36 (b) This chapter is applicable to a community-based
37 ~~correction~~ *punishment* program.

38 SEC. 4. Section 17 of the Penal Code is amended to
39 read:

1 17. (a) A felony is a crime which is punishable with
2 death or by imprisonment in the state prison, *or by*
3 *incarceration pursuant to Section 19.3*. Every other crime
4 or public offense is a misdemeanor except those offenses
5 that are classified as infractions.

6 (b) When a crime is punishable, in the discretion of the
7 court, by imprisonment in the state prison or
8 *incarceration pursuant to Section 19.3*, *or by fine or*
9 imprisonment in ~~the~~*a* county jail *not exceeding one year*,
10 it is a misdemeanor for all purposes under the following
11 circumstances:

12 (1) After a judgment imposing a punishment other
13 than imprisonment in the state prison *or incarceration*
14 *pursuant to Section 19.3*.

15 (2) When the court, upon committing the defendant
16 to the Youth Authority, designates the offense to be a
17 misdemeanor.

18 (3) When the court grants probation to a defendant
19 without imposition of sentence and at the time of
20 granting probation, or ~~on~~ *upon* application of the
21 defendant or probation officer thereafter, the court
22 declares the offense to be a misdemeanor.

23 (4) When the prosecuting attorney files in a court
24 having jurisdiction over misdemeanor offenses a
25 complaint specifying that the offense is a misdemeanor,
26 unless the defendant at the time of his or her arraignment
27 or plea objects to the offense being made a misdemeanor,
28 in which event the complaint shall be amended to charge
29 the felony and the case shall proceed on the felony
30 complaint.

31 (5) When, at or before the preliminary examination or
32 prior to filing an order pursuant to Section 872, the
33 magistrate determines that the offense is a misdemeanor,
34 in which event the case shall proceed as if the defendant
35 had been arraigned on a misdemeanor complaint.

36 (c) When a defendant is committed to the Youth
37 Authority for a crime punishable, in the discretion of the
38 court, by imprisonment in the state prison or by fine or
39 imprisonment in the county jail, the offense shall, upon

1 the discharge of the defendant from the Youth Authority,
2 thereafter be deemed a misdemeanor for all purposes.

3 (d) A violation of any code section listed in Section 19.8
4 is an infraction subject to the procedures described in
5 Sections 19.6 and 19.7 when *either of the following*
6 *circumstances applies*:

7 (1) The prosecutor files a complaint charging the
8 offense as an infraction unless the defendant, at the time
9 he or she is arraigned, after being informed of his or her
10 rights, elects to have the case proceed as a misdemeanor;
11 ~~or~~.

12 (2) The court, with the consent of the defendant,
13 determines that the offense is an infraction in which
14 event the case shall proceed as if the defendant had been
15 arraigned on an infraction complaint.

16 SEC. 5. Section 19.2 of the Penal Code is amended to
17 read:

18 19.2. ~~In no case shall any~~ *Except as provided in*
19 *Section 19.3, no* person sentenced to confinement in a
20 county or city jail, or in a county or joint county penal
21 farm, road camp, work camp, or other county adult
22 detention facility, or committed to the sheriff for
23 placement in any county adult detention facility, on
24 conviction of a misdemeanor, or as a condition of
25 probation upon conviction of either a felony or a
26 misdemeanor, or upon commitment for civil contempt,
27 or upon default in the payment of a fine upon conviction
28 of either a felony or a misdemeanor, or for any reason
29 except upon conviction of more than one offense when
30 consecutive sentences have been imposed, *shall* be
31 committed for a period in excess of one year; ~~provided,~~
32 ~~however, that~~. *However,* the time allowed on parole shall
33 not be considered as a part of the period of confinement.

34 SEC. 6. Section 19.3 is added to the Penal Code, to
35 read:

36 19.3. (a) Any person convicted and sentenced for a
37 felony shall be punished by incarceration in the county if
38 all of the following conditions apply:

39 (1) The offender has been given a total sentence of not
40 more than 35 months, including all sentences imposed for

1 more than one offense when consecutive sentences have
2 been imposed.

3 (2) The current felony conviction does not subject the
4 offender to, nor does the offender have a criminal record
5 that includes a conviction pursuant to, the provisions of
6 Section 667, 667.51, 667.71, 1170.12, or 1203.066, or an
7 offense listed in subdivision (c) of Section 667.5,
8 subdivision (c) of Section 1192.7, or subdivision (e), in this
9 state or any other state.

10 (3) The offender has no history of escape or attempted
11 escape.

12 (4) The county in which the offender is incarcerated
13 has an approved community-based punishment plan and
14 contract, pursuant to Chapter 2 (commencing with
15 Section 8050) of Title 9 of Part 3.

16 (5) The county in which the offender is incarcerated
17 has agreed to be subject to this section by adoption of a
18 resolution of the board of supervisors.

19 (b) All felons sentenced pursuant to this section shall
20 be placed in the custody of the correctional
21 administrator, as defined in Section 8052, of the county
22 where the sentence was imposed. However, counties may
23 enter into agreements with other counties to incarcerate
24 out-of-county offenders.

25 (c) All felons sentenced pursuant to this section shall
26 be deemed to have served a prior prison term for
27 purposes of sentence enhancements.

28 (d) This section is not subject to the limitation on the
29 period of commitment to a county jail specified in Section
30 19.2.

31 (e) For purposes of paragraph (2) of subdivision (a),
32 the following offenses are included:

33 (1) Manslaughter, in violation of subdivision (b) of
34 Section 192.

35 (2) Gross vehicular manslaughter while intoxicated, in
36 violation of Section 191.5, or vehicular manslaughter, in
37 violation of paragraph (1) or (3) of subdivision (c) of
38 Section 192.

39 (3) Assault with a deadly weapon, in violation of
40 Section 245, 245.3, or 246.



(4) Other types of assault and battery offenses, in violation of Section 69, subdivision (a) of Section 217.1, Section 243, 243.1, or 243.3, subdivision (a), (c), or (d) of Section 243.4, Section 244, 273a, 273d, or 273.5, subdivision (e) of Section 273.6, or Section 417.6, 4131.5, or 4501.5 of this code, or Section 2800.2 or 20001 or subdivision (b) of Section 23104 of the Vehicle Code.

(5) Rape, in violation of Section 261.5.

(6) Kidnapping, in violation of Section 207 or 278.

(7) Lewd and lascivious acts with a child, in violation of subdivision (c) of Section 288.

(8) Oral copulation, in violation of subdivision (a) or (b) of Section 288a.

(9) Sodomy, in violation of paragraph (1) or (2) of subdivision (b) or subdivision (e) of Section 286.

(10) Penetration with a foreign object, in violation of subdivision (b), (h), or (i) of Section 289.

(11) Other sex offenses in violation of Section 266f, 266h, or 285, subdivision (b) of Section 311.2, subdivision (c) of Section 311.4, subdivision (1) of Section 314, or Section 314.2 or 647.6.

(12) Burglary of the first degree in violation of subdivision (a) of Section 460.

(13) Participation in a criminal street gang in violation of Section 186.22.

(14) Arson or attempted arson in violation of Section 452 or 455.

(15) A violation of the Gun Free School Zone Act in Section 626.9.

(16) Escape or failure to return in violation of Section 4530 or 4532, or subdivision (a) of Section 1768.7 of the Welfare and Institutions Code.

(17) Any offense where the defendant personally possessed or used a firearm in the commission of that offense, or any other firearm offense in violation of Section 12025 or 12031.5, subdivision (a) of Section 12220, or subdivision (b) of Section 12280.

(f) As used in this section, “incarceration” includes incarceration, supervision, or treatment, or any combination thereof.

(g) If any court renders a decision that would have the effect of requiring all counties to participate in a program pursuant to this section, the provisions of this section shall become inoperative.

SEC. 7. Section 2900.5 of the Penal Code, as amended by Section 29 of Chapter 1077 of the Statutes of 1996, is amended to read:

2900.5. (a) (1) In all felony and misdemeanor convictions, either by plea or by verdict, when the defendant has been in custody, including, but not limited to, any time spent in a jail, camp, work furlough facility, halfway house, rehabilitation facility, hospital, prison, juvenile detention facility, similar residential institution, or home detention program, all days of custody of the defendant, including days served as a condition of probation in compliance with a court order, and including days credited to the period of confinement pursuant to Section 4019, shall be credited upon his or her term of imprisonment, or credited to any fine on a proportional basis, including, but not limited to, base fines and restitution fines, which may be imposed, at the rate of not less than thirty dollars (\$30) per day, or more, in the discretion of the court imposing the sentence. If the total number of days in custody exceeds the number of days of the term of imprisonment to be imposed, the entire term of imprisonment shall be deemed to have been served. In any case where the court has imposed both a prison or jail term of imprisonment and a fine, any days to be credited to the defendant shall first be applied to the term of imprisonment imposed, and thereafter the remaining days, if any, shall be applied to the fine on a proportional basis, including, but not limited to, base fines and restitution fines.

(2) *Notwithstanding, and in addition to, paragraph (1), any person convicted of a misdemeanor who has been under the custody of the correctional administrator, including, custody as provided in paragraph (1) or placement in any community-based punishment program authorized under Chapter 2 (commencing with Section 8050) of Title 9 of Part 3, shall have all days of that*

1 *custody credited upon his or her term of imprisonment,*
2 *or credited to any fine that may be imposed, as provided*
3 *in paragraph (1). Credit under this paragraph for days in*
4 *custody shall apply to any mandatory minimum term of*
5 *imprisonment.*

6 (b) For the purposes of this section, credit shall be
7 given only where the custody to be credited is
8 attributable to proceedings related to the same conduct
9 for which the defendant has been convicted. Credit shall
10 be given only once for a single period of custody
11 attributable to multiple offenses for which a consecutive
12 sentence is imposed.

13 (c) For the purposes of this section, “term of
14 imprisonment” includes any period of imprisonment
15 imposed as a condition of probation or otherwise ordered
16 by a court in imposing or suspending the imposition of
17 any sentence, and also includes any term of
18 imprisonment, including any period of imprisonment
19 prior to release on parole and any period of imprisonment
20 and parole, prior to discharge, whether established or
21 fixed by statute, by any court, or by any duly authorized
22 administrative agency.

23 (d) It shall be the duty of the court imposing the
24 sentence to determine the date or dates of any admission
25 to and release from custody prior to sentencing, and the
26 total number of days to be credited pursuant to this
27 section. The total number of days to be credited shall be
28 contained in the abstract of judgment provided for in
29 Section 1213.

30 (e) It shall be the duty of any agency to which a person
31 is committed to apply the credit provided for in this
32 section for the period between the date of sentencing and
33 the date the person is delivered to the agency.

34 (f) If a defendant serves time in a camp, work furlough
35 facility, halfway house, rehabilitation facility, hospital,
36 juvenile detention facility, similar residential facility, or
37 home detention program in lieu of imprisonment in
38 county jail, and the statute under which the defendant is
39 sentenced requires a mandatory minimum period of time

1 in jail, the time spent in these facilities or programs shall
2 qualify as mandatory time in jail.

3 (g) Notwithstanding any other provision of this code
4 as it pertains to the sentencing of convicted offenders,
5 nothing in this section is to be construed as authorizing
6 the sentencing of convicted offenders to any of the
7 facilities or programs mentioned herein.

8 (h) This section shall remain operative until January 1,
9 1999, and as of that date is repealed.

10 SEC. 8. Section 2900.5 of the Penal Code, as amended
11 by Section 28 of Chapter 1077 of the Statutes of 1996, is
12 amended to read:

13 2900.5. (a) (1) In all felony and misdemeanor
14 convictions, either by plea or by verdict, when the
15 defendant has been in custody, including, but not limited
16 to, any time spent in a jail, camp, work furlough facility,
17 halfway house, rehabilitation facility, hospital, prison,
18 juvenile detention facility, or similar residential
19 institution, all days of custody of the defendant, including
20 days served as a condition of probation in compliance
21 with a court order, and including days credited to the
22 period of confinement pursuant to Section 4019, shall be
23 credited upon his or her term of imprisonment, or
24 credited to any fine on a proportional basis, including, but
25 not limited to, base fines and restitution fines, which may
26 be imposed, at the rate of not less than thirty dollars (\$30)
27 per day, or more, in the discretion of the court imposing
28 the sentence. If the total number of days in custody
29 exceeds the number of days of the term of imprisonment
30 to be imposed, the entire term of imprisonment shall be
31 deemed to have been served. In any case where the court
32 has imposed both a prison or jail term of imprisonment
33 and a fine, any days to be credited to the defendant shall
34 first be applied to the term of imprisonment imposed, and
35 thereafter the remaining days, if any, shall be applied to
36 the fine on a proportional basis, including, but not limited
37 to, base fines and restitution fines.

38 (2) *Notwithstanding, and in addition to, paragraph*
39 *(1), any person convicted of a misdemeanor who has*
40 *been under the custody of the correctional administrator,*

1 *including, custody as provided in paragraph (1) or*
2 *placement in any community-based punishment*
3 *program authorized under Chapter 2 (commencing with*
4 *Section 8050) of Title 9 of Part 3, shall have all days of that*
5 *custody credited upon his or her term of imprisonment,*
6 *or credited to any fine that may be imposed, as provided*
7 *in paragraph (1). Credit under this paragraph for days in*
8 *custody shall apply to any mandatory minimum term of*
9 *imprisonment.*

10 (b) For the purposes of this section, credit shall be
11 given only where the custody to be credited is
12 attributable to proceedings related to the same conduct
13 for which the defendant has been convicted. Credit shall
14 be given only once for a single period of custody
15 attributable to multiple offenses for which a consecutive
16 sentence is imposed.

17 (c) For the purposes of this section, “term of
18 imprisonment” includes any period of imprisonment
19 imposed as a condition of probation or otherwise ordered
20 by a court in imposing or suspending the imposition of
21 any sentence, and also includes any term of
22 imprisonment, including any period of imprisonment
23 prior to release on parole and any period of imprisonment
24 and parole, prior to discharge, whether established or
25 fixed by statute, by any court, or by any duly authorized
26 administrative agency.

27 (d) It shall be the duty of the court imposing the
28 sentence to determine the date or dates of any admission
29 to, and release from, custody prior to sentencing and the
30 total number of days to be credited pursuant to this
31 section. The total number of days to be credited shall be
32 contained in the abstract of judgment provided for in
33 Section 1213.

34 (e) It shall be the duty of any agency to which a person
35 is committed to apply the credit provided for in this
36 section for the period between the date of sentencing and
37 the date the person is delivered to the agency.

38 (f) Notwithstanding any other provision of this code as
39 it pertains to the sentencing of convicted offenders,
40 nothing in this section is to be construed as authorizing

1 the sentencing of convicted offenders to any of the
2 facilities or programs mentioned herein.

3 (g) This section shall become operative on January 1,
4 1999.

5 SEC. 9. Section 4000.2 is added to the Penal Code, to
6 read:

7 4000.2. (a) Notwithstanding any other law, the board
8 of supervisors of any county, by resolution, may designate
9 a chief correctional administrator and a correctional
10 administrator, as defined in Section 8052.

11 (b) Upon adoption of a resolution by the board of
12 supervisors pursuant to subdivision (a), any person
13 convicted of a misdemeanor and sentenced to a period of
14 incarceration in a county jail, including any mandatory
15 minimum sentence, shall be under the legal custody of
16 the correctional administrator.

17 (c) Notwithstanding any other law, the correctional
18 administrator has sole authority for the evaluation,
19 screening, and programming of all misdemeanor
20 offenders sentenced to the custody of the correctional
21 administrator pursuant to this chapter.

22 (d) For purposes of this section, “custody” includes
23 custody as provided in paragraph (2) of subdivision (a)
24 of Section 2900.5 or placement in any community-based
25 punishment program authorized under Chapter 2
26 (commencing with Section 8050) of Title 9 of Part 3.

27 SEC. 10. Section 4019 of the Penal Code is amended
28 to read:

29 4019. (a) The provisions of this section shall apply in
30 all of the following cases:

31 (1) When a prisoner is confined in or committed to a
32 county jail, industrial farm, or road camp, or any city jail,
33 industrial farm, or road camp, including all days of
34 custody from the date of arrest to the date on which the
35 serving of the sentence commences, under a judgment of
36 imprisonment, or a fine and imprisonment until the fine
37 is paid in a criminal action or proceeding.

38 (2) When a prisoner is confined in or committed to the
39 county jail, industrial farm, or road camp or any city jail,
40 industrial farm, or road camp as a condition of probation

1 after suspension of imposition of a sentence or suspension
2 of execution of sentence, in a criminal action or
3 proceeding.

4 (3) When a prisoner is confined in or committed to the
5 county jail, industrial farm, or road camp or any city jail,
6 industrial farm, or road camp for a definite period of time
7 for contempt pursuant to a proceeding, other than a
8 criminal action or proceeding.

9 (4) When a prisoner is confined in a county jail,
10 industrial farm, or road camp, or a city jail, industrial
11 farm, or road camp following arrest and prior to the
12 imposition of sentence for a felony conviction.

13 (5) *When a prisoner is confined in a county jail,*
14 *industrial farm, or road camp, or a city jail, industrial*
15 *farm, or road camp upon a sentence of incarceration at*
16 *the local level for more than one year but not more than*
17 *35 months after conviction of a felony in a criminal*
18 *proceeding.*

19 (b) Subject to the provisions of subdivision (d), for
20 each six-day period in which a prisoner is confined in or
21 committed to a facility as specified in this section, one day
22 shall be deducted from his or her period of confinement
23 unless it appears by the record that the prisoner has
24 refused to satisfactorily perform labor as assigned by the
25 sheriff, chief of police, or superintendent of an industrial
26 farm or road camp.

27 (c) For each six-day period in which a prisoner is
28 confined in or committed to a facility as specified in this
29 section, one day shall be deducted from his or her period
30 of confinement unless it appears by the record that the
31 prisoner has not satisfactorily complied with the
32 reasonable rules and regulations established by the
33 sheriff, chief of police, or superintendent of an industrial
34 farm or road camp.

35 (d) Nothing in this section shall be construed to
36 require the sheriff, chief of police, or superintendent of
37 an industrial farm or road camp to assign labor to a
38 prisoner if it appears from the record that the prisoner has
39 refused to satisfactorily perform labor as assigned or that
40 the prisoner has not satisfactorily complied with the

1 reasonable rules and regulations of the sheriff, chief of
2 police, or superintendent of any industrial farm or road
3 camp.

4 (e) No deduction may be made under this section
5 unless the person is committed for a period of six days or
6 longer.

7 (f) It is the intent of the Legislature that if all days are
8 earned under this section, a term of six days will be
9 deemed to have been served for every four days spent in
10 actual custody.

11 SEC. 11. Chapter 8.6 (commencing with Section
12 6140) is added to Title 7 of Part 3 of the Penal Code, to
13 read:

14
15 CHAPTER 8.6. MEDICAL DETENTION PROGRAM

16
17 6140. (a) It is the intent of the Legislature to
18 maximize federal financial participation in health care
19 costs associated with severely ill, incapacitated, and
20 disabled inmates and maintain public safety.

21 (b) As used in this chapter:

22 (1) "Department" means the Department of
23 Corrections.

24 (2) "Director" means the Director of Corrections.

25 (3) "Panel" means the Medical Detention Evaluation
26 Panel.

27 (4) "Program" means the Medical Detention
28 Program.

29 6141. (a) The Department of Corrections shall
30 establish a Medical Detention Program that utilizes
31 licensed health care facilities for the provision of medical,
32 developmental, and mental health services necessary for
33 the treatment of severely ill, incapacitated, and disabled
34 inmates of the state prisons. In addition, the department
35 shall explore using these facilities for housing geriatric,
36 aged, and nonambulatory inmate populations.

37 (b) Services may include comprehensive health
38 services for individuals with medical or rehabilitation
39 needs, chronic diseases or conditions, mental disorders, or
40 developmental disabilities.

1 (c) The department shall develop standards for the
2 program by July 1, 2000, including custody requirements
3 for inmates and inmate eligibility for the program as
4 specified in Section 6143. In developing the program
5 standards, the department shall maximize federal
6 financial participation in providing medical services for
7 eligible individuals.

8 6142. (a) The department shall establish a Medical
9 Detention Evaluation Panel composed of five members
10 with either a medical or correctional background. Three
11 members shall be appointed by the Governor, one
12 member by the Senate Rules Committee, and one
13 member by the Speaker of the Assembly. Each panel
14 member shall serve a four-year term. The terms shall be
15 staggered with two appointees of the Governor serving
16 initial two-year terms. All terms shall commence on
17 January 1, 2000. Members shall be eligible for
18 reappointment. The chair of the panel shall be designated
19 by the Governor.

20 (b) The panel shall make recommendations to the
21 Director of Corrections on inmate eligibility for the
22 program based on department standards.

23 (c) The panel shall meet as necessary for a full and
24 complete study of the cases of all inmates the director has
25 deemed potentially eligible for the Medical Detention
26 Program.

27 6143. (a) In determining custody requirements for
28 the program, the panel and the director shall consider
29 placements that match inmate needs with corresponding
30 facility service levels, security capacity, and ability to
31 provide services in a cost-effective manner. The
32 department shall monitor facility compliance with the
33 custody requirements of the program.

34 (b) In the evaluation of patient eligibility, the panel
35 and the director shall consider the age, commitment
36 status, record while incarcerated, escape risk, infirmity,
37 mobility, medical needs, and need for assistance with
38 daily living of the inmate.

39 6144. The implementation of the program shall not
40 cause the displacement of civil service employees. For

1 purposes of this section, “displacement” includes layoff,
2 demotion, involuntary transfer to a new class or to a new
3 location requiring a change in residence, and time base
4 reductions. “Displacement” does not include changes in
5 shifts or days off, nor reassignment to other positions
6 within the same class and general location.

7 SEC. 12. Section 8051 of the Penal Code is amended
8 to read:

9 8051. The Legislature hereby finds and declares as
10 follows:

11 (a) Community-based punishment programs require
12 a partnership between the state and local government to
13 provide and expand the use of intermediate—~~sanctions~~
14 *punishments* for specifically targeted offender
15 populations.

16 (b) Community-based programs must operate to
17 punish offenders while at the same time providing
18 opportunities to change behavior.

19 (c) Community-based punishment programs provide
20 appropriate means of managing select offenders but
21 should not be viewed as the only solution to prison
22 overcrowding.

23 (d) Community-based punishment programs target
24 prison-bound and jail-bound nonviolent offenders
25 because this group poses the least risk to the public and
26 is the most amenable to the individualized programming
27 and services offered by community-based programs.

28 (e) Community-based punishment programs
29 emphasize reducing local jail populations, thereby
30 making jail space available for new commitments, parole
31 violators, and probation violators who are now being sent
32 to jail and nonviolent felons who have already been sent
33 to prison for short periods of time.

34 (f) Community-based punishment programs must be
35 financed from a consistent, reliable, and separate funding
36 source.

37 (g) Community-based punishment programs should
38 be expanded incrementally with a variety of pilot
39 approaches tested to determine their effectiveness prior
40 to expansion.

(h) In order to effectively utilize available resources, to ensure appropriate management of the local offender population, each county utilizing community-based punishment programs must implement a locally coordinated planning process.

(i) Since successful community-based punishment programs are dependent on the coordinated efforts of, and successful working relationships between, state and local agencies, the Board of Corrections is the logical state agency to coordinate community punishment efforts because of its extensive experience with collaborative state and local programs.

SEC. 13. Section 8052 of the Penal Code is amended to read:

8052. As used in this chapter, the following definitions shall apply:

(a) “Board” means the Board of Corrections, unless otherwise indicated.

(b) “Chief correctional administrator” means the sheriff, chief probation officer, or director of the county department of corrections, who is designated by the board of supervisors to have administrative responsibility for the community-based punishment plan and oversight responsibility for contracts entered into under Section 8100.

“Correctional administrator” means the sheriff, chief probation officer, or director of the local corrections agency who has responsibility for county corrections operations and programs, including a community-based punishment program.

(c) “Community-based punishment” means a partnership between the state and a county or a collaboration of counties to manage and provide correctional services, especially those services considered to be intermediate ~~sanctions~~ *punishments* at the local level of government for targeted, select offender populations pursuant to the community corrections plan of a county or a collaboration of counties.

(d) “Community-based punishment plan” means the proposal for a community-based punishment program

1 promulgated by a county or a collaboration of counties
2 that has been developed by the chief correctional
3 administrator, in cooperation with the district attorney,
4 public defender, and other concerned community
5 representatives designated by the board of supervisors, to
6 address correctional needs in that county or collaboration
7 of counties.

8 (e) “Intermediate ~~sanctions~~” *punishments*” means
9 punishment options and sanctions ~~other than simple in~~
10 *addition to or in lieu of* incarceration in prison or jail or
11 traditional routine probation supervision. Intermediate
12 ~~sanctions~~ *punishments* may be provided by correctional
13 agencies directly or through community-based public or
14 private correctional service providers, and include, but
15 are not limited to, the following:

16 (1) Short-term “shock” incarceration in either jail or
17 prison, for a period of not more than ~~60~~ 90 days.

18 (2) Incarceration in a “boot camp” facility, *road camp*,
19 *or work camp*.

20 (3) Intensive supervision.

21 (4) Home detention with electronic monitoring.

22 (5) Mandatory community service.

23 (6) Restorative justice programs such as mandatory
24 victim restitution and victim-offender reconciliation.

25 (7) Work, training, or education in a furlough program
26 pursuant to Section 1208.

27 (8) Work, in lieu of confinement, in a work release
28 program pursuant to Section 4024.2.

29 (9) Day reporting *centers*.

30 (10) Mandatory residential or nonresidential
31 substance abuse treatment programs established
32 pursuant to Chapter 9.4 (commencing with Section 6240)
33 of Title 7.

34 (11) Mandatory random drug testing.

35 (12) Mother-infant care programs.

36 (13) Community-based residential programs offering
37 structure, supervision, drug treatment, alcohol
38 treatment, literacy programming, employment
39 counseling, psychological counseling, or any combination
40 of these and other interventions.

(f) “Nonviolent offender” means a person who is not currently charged with a violent crime, as defined in Section 667.5, *or with a crime listed in subdivision (e) of Section 19.3*, does not have a criminal record that includes ~~a violent crime, meets the National Institute of Corrections (NIC) Model Classification System guidelines for classification as a nonviolent offender, any~~ of those crimes, and does not pose a risk to the community, as determined by the correctional administrator.

SEC. 14. Section 8061 of the Penal Code is amended to read:

8061. The board, in collaboration with state, local, and community-based departments, agencies, and organizations shall do the following:

(a) Describe the parameters of effective community-based punishment programs and the relationship between the state and local jurisdictions in meeting the purposes of this chapter.

(b) Develop and implement a process by which local jurisdictions are selected and can participate in pilot efforts initiated under this chapter.

(c) Develop and implement the process by which counties participating in accordance with this chapter ~~annually~~ submit their community-based punishment program proposals for approval, modification, or both.

(d) Design and implement a process for annually awarding funds to counties participating pursuant to this chapter to implement their community-based punishment program proposals, and administer and monitor the receipt, expenditure, and reporting of those funds by participating counties.

(e) Provide technical assistance and support to counties and community correctional administrators in determining whether to participate in community-based punishment programs, and in either developing or annually updating their punishment programs.

(f) Facilitate the sharing of information among counties and between county and state agencies relative to community-based punishment approaches and

1 programs being initiated or already in existence,
2 strengths and weaknesses of specific programs, specific
3 offender groups appropriate for different programs,
4 results of program evaluations and other data, and
5 anecdotal material that may assist in addressing the
6 purposes of this chapter.

7 (g) Adopt and periodically revise regulations
8 necessary to implement this chapter.

9 (h) Design and provide for regular and rigorous
10 evaluation of the community-based punishment
11 programming undertaken pursuant to approved
12 community-based punishment plans.

13 (i) Design and provide for analysis and evaluation of
14 the pilot and any subsequent implementation of this
15 chapter, with areas of analysis to include, at a minimum,
16 the following:

17 (1) The relationship between the board and counties
18 or collaborations of counties submitting county
19 community-based punishment plans.

20 (2) The effectiveness of this chapter in encouraging
21 the use of intermediate as well as traditional sanctions.

22 (3) The categories of offenders most suitable for
23 specific intermediate—~~sanctions~~ *punishments*, various
24 aspects of community-based punishment programming,
25 or both.

26 (4) The effectiveness of the programs implemented
27 pursuant to this chapter in maintaining public safety.

28 (5) The cost-effectiveness of the programs
29 implemented pursuant to this chapter.

30 (6) The effect of the programs implemented pursuant
31 to this chapter on prison, jail, and Department of the
32 Youth Authority populations.

33 (j) On January 1, 1997, and annually thereafter, the
34 board shall, upon request, provide the Legislature with a
35 progress report on the status of the implementation of
36 this chapter.

37 SEC. 15. Section 8080 of the Penal Code is amended
38 to read:

39 8080. Each county or collaboration of counties
40 electing to operate a community-based punishment

1 program under this chapter shall develop a
2 community-based punishment plan describing the
3 continuum of sanctions and services comprising its
4 program. The plan shall be developed pursuant to
5 guidelines established by the board and shall be updated
6 ~~annually~~ or *periodically*, as determined by the board. The
7 plan shall describe, at a minimum, the following:

8 (a) System design and administration, lines of
9 authority, and responsible personnel, including, but not
10 limited to, the chief correctional administrator and other
11 relevant individuals.

12 (b) The extent and nature of citizen involvement in
13 the development and promulgation of the
14 community-based punishment plan, including, but not
15 limited to, the following:

16 (1) Consultation with a citizens' advisory committee
17 formed for the purpose of providing community input
18 into the development and promulgation of a
19 community-based punishment plan.

20 (2) Consultation with selected community leaders.

21 (3) Input derived from citizen testimony at public
22 hearings or town hall meetings.

23 (c) The number and kind of offenders to participate in
24 community-based punishment programs.

25 (d) Eligibility requirements.

26 (e) How offenders, including those coming from the
27 courts and those who are probation and parole violators,
28 are to be selected to participate.

29 (f) Community-based punishment program
30 components, including, for example, which punishment
31 options, intermediate ~~sanctions~~ *punishments*, treatment
32 options, or combinations are to be developed and used for
33 which offenders.

34 (g) Responsibilities and relationships, including, but
35 not limited to, the elements of community-based
36 punishment programs that are administered by the
37 sheriff's department, the probation department, or
38 parole personnel, and when and how offenders are to be
39 programmed.

1 (h) Criteria for transferring offenders from more
2 restrictive to less restrictive sanctions.

3 (i) Criteria for disciplinary interventions, imposition
4 of stricter sanctions, or return to prison or jail, when
5 necessary.

6 (j) Anticipated costs and funding needs.

7 SEC. 16. Section 8100 is added to the Penal Code, to
8 read:

9 8100. (a) Section 19.3 and this section shall apply only
10 to a county that has executed a contract with the Board
11 of Corrections that establishes the conditions under
12 which the parties will implement Section 19.3 and this
13 section. In order to contract to incarcerate prisoners
14 under the terms of Section 19.3, a county shall develop a
15 community-based punishment plan pursuant to this
16 chapter that is approved by the board. The contract shall
17 specify which types of prisoners, categorized by offense
18 committed and by length of sentence, the county will
19 incarcerate, from among those sentenced to a term of not
20 more than 18 months, not more than 24 months, or not
21 more than 35 months in the state prison. Those choices
22 shall be specified in the contract and shall result in the
23 county having to accept all prisoners within those
24 categories. The contract also shall specify the current
25 average cost of incarcerating felons in the state prison, for
26 purposes of subdivision (c).

27 (b) The board shall develop criteria for the transfer of
28 custody of prisoners committed to a local correctional
29 facility pursuant to a contract, who subsequently are
30 found to be inappropriate for placement at the local level
31 according to the terms of the contract.

32 (c) From moneys appropriated by the Legislature, the
33 board shall reimburse any contracting county for felons
34 who are committed to a jail or other local correctional
35 facility pursuant to Section 19.3, in an amount that does
36 not exceed the average cost of incarcerating felons in the
37 state prison, as specified in the contract.

38 (d) No state money shall be encumbered by a contract
39 with a county, nor shall state money be released to a



1 county, until the conditions of this section have been
2 fulfilled by the county.

3 (e) Prisoners sentenced to imprisonment in a county
4 jail for more than one year but not more than 35 months
5 who are committed to a jail or other local correctional
6 facility shall be subject to the rules and regulations of the
7 facility in which they are confined and are not under the
8 legal custody or jurisdiction of the Department of
9 Corrections.

10 (f) Notwithstanding Chapter 8 (commencing with
11 Section 3000) of Title 1 of Part 3, a person to whom this
12 section applies who commits a crime after January 1, 2000,
13 shall not be given a term of parole after being
14 incarcerated pursuant to Section 19.3.

15 (g) As used in this section, “incarceration” includes
16 incarceration, supervision, treatment, or any
17 combination thereof.

18 (h) If any court renders a decision that would have the
19 effect of requiring all counties to participate in a program
20 pursuant to this section, the provisions of this section shall
21 become inoperative.

22 (i) It is the intent of the Legislature that the provisions
23 of this section be phased in over three years, with funds
24 being appropriated to the Board of Corrections in the
25 annual Budget Act, to be used for the costs of contracts
26 with counties, as follows:

27 (1) For the 1999–2000 fiscal year, twenty million
28 dollars (\$20,000,000).

29 (2) For the 2000–01 fiscal year, sixty million dollars
30 (\$60,000,000).

31 (3) For the 2001–02 fiscal year, one hundred twenty
32 million dollars (\$120,000,000).